

Inventors: Palczewski et al.  
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Group I: Claims 1 through 27, 30 and 36, directed to a gene targeting construct comprising a rod outer segment (ROS) targeting signal, a vector or a cell or a gene disrupted mouse comprising the construct;

Group II: Claims 28 and 37, directed to a cell extract; and

Group III: Claims 29 and 38, directed to a substantially purified transgenic polypeptide.

Applicants believe there is a typographical error in the Restriction Requirement regarding the claims listed in Group I. The Restriction Requirement currently states that Group I includes "claims 1-27, 30 and 36," however, we believe the Restriction Requirement intended to state that Group I includes "claims 1-27 and 30-36." Applicants believe the Examiner intended for Group I to include claims 30 through 36 because claims 31-35, which depend on claim 30, are parallel to claims 18-22 in Group I. In addition, in the current version of the Restriction Requirement, claims 31-35 are not assigned to any group. Applicants therefore interpret Group I as containing claims 1 through 27, and 30 through 36. If Applicant's interpretation of Group I is incorrect, then clarification by the Examiner and issuance of a revised Restriction Requirement is respectfully requested.

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Applicants traverse the Restriction Requirement for the reasons stated below. Nevertheless, in order to be responsive to the Office Action, Applicants elect the claims of Group I, claims 1 through 27, and 30 through 36, directed to a gene targeting construct comprising a rod outer segment (ROS) targeting signal, a vector or a cell or a gene disrupted mouse comprising the construct. Applicants reserve the right to pursue prosecution of the non-elected claims in a later filed application claiming the benefit of priority of the above-identified application.

Applicants traverse the Restriction Requirement with respect to the division of the claims of Groups II and III from the claims of Groups I. Applicants submit that, while the claims of Groups II and III are patentably distinct from the claims of Group I, a thorough search of the elected claims of Group I will necessarily include a search of the claims of Groups II and III because the claims of Groups II and III depend on the claims of Group I. For example, a search of Group I claim 27 directed to a rod cell will necessarily include a search of Group II claim 28, directed to an extract of the cell of claim 27. In addition, a search of Group I claim 27 will necessarily include a search of Group III claim 29, directed to a substantially purified transgenic polypeptide isolated from the cell of claim 27, or from an extract thereof. Accordingly, Applicants submit that search and examination of Groups II and III with Group I does not pose a serious burden to the Examiner.

Moreover, the claims of Groups II and III, while patentably distinct from the claims of Groups I, are related such that the division of the claims into three separate groups will

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result in a duplicative effort by the U.S. Patent and Trademark Office. Since joint examination of claims 1-38 will not result in a serious burden on the Examiner, rejoinder of Groups II and III with Group I, respectfully is requested.

CONCLUSION

Applicants appreciate the Examiner's reconsideration of the Restriction Requirement. The Examiner is invited to contact the undersigned agent or Cathryn Campbell if there are any questions regarding this application.

Respectfully submitted,

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Date

Melody E. Clark  
Melody E. Clark  
Registration No. 51,566  
Telephone No. (858) 535-9001  
Facsimile No. (858) 535-8949

CAMPBELL & FLORES LLP  
4370 La Jolla Village Drive  
7<sup>th</sup> Floor  
San Diego, California 92122  
USPTO CUSTOMER NO. 23601